

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

IOU CENTRAL, INC.	§	
d/b/a IOU FINANCIAL	§	
	§	
VS.	§	CIVIL NO. 4:21-CV-144-Y
	§	
PREMIER PAVING GP.	§	
INC., et al.	§	

ORDER DENYING MOTIONS AS MOOT

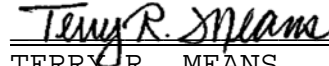
On February 11, 2021, plaintiff IOU Central Inc. filed its original complaint in this Court. (Doc. no. 1.) On March 10, Defendants filed a motion to dismiss. (Doc. no 8.) On April 12, IOU Central filed a "Notice of Voluntary Dismissal of Entire Case Without Prejudice Including Withdrawal of Motion [Doc 10]." (Doc. no. 21.)

The Federal Rules of Civil Procedure allow a plaintiff to dismiss an action without a court order by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment" FED. R. CIV. P. 41(a)(1)(A)(i). Under that rule, the Fifth Circuit held that "a plaintiff has an absolute right to dismiss a lawsuit before the defendant has filed an answer or summary judgment motion." *Carter v. United States*, 547 F.2d 258, 259 (5th Cir. 1977). A defendant's motion to dismiss is not the "equivalent of an answer." *Id.*

In the present case, IOU Central filed its notice of dismissal on April 12, 2021 (doc. no. 21). Therefore, as of that date, this

case was **DISMISSED without prejudice.** Accordingly, both Defendant's motion to dismiss (doc. no. 8) and Plaintiff's motion (doc. no. 10) are **MOOT** and therefore **DENIED.**

SIGNED April 22, 2021.



TERRY R. MEANS
UNITED STATES DISTRICT JUDGE